

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF WISCONSIN

TOUSSAINT L'OUVERTURE MINETT, SR.,

Plaintiff,

v.

OFFICER KRUTER,

Defendant.

ORDER

21-cv-30-bbc

Pro se plaintiff Toussaint Minett, Sr., who is incarcerated at the Oakhill Correctional Institution, has filed a proposed civil action under 42 U.S.C. § 1983, alleging that while he was incarcerated at the Rock County jail, defendant Officer Kruter violated his constitutional rights by repeatedly shining a bright light in plaintiff's eyes on February 23, 2019, even though he knew from plaintiff's past complaints and lawsuits that it aggravated plaintiff's serious eye condition. Because plaintiff is incarcerated, his complaint must be screened under 28 U.S.C. § 1915A, to determine whether it is frivolous, malicious, fails to state a claim upon which relief may be granted or seeks monetary relief from a defendant who is immune from such relief.

Plaintiff raised this same claim in a previously-filed lawsuit in this court, case no. 19-cv-205, which I dismissed without prejudice for plaintiff's failure to exhaust his jail remedies before filing his lawsuit. Dkt. #44. In that case, I found that plaintiff completed only the first four steps of the jail's five-step grievance procedure and did not file his grievance with the sheriff. Id. at 3-4. It is clear from plaintiff's new proposed complaint and the documents attached to it that plaintiff has made another attempt to exhaust his administrative remedies

regarding the February 2019 incident by filing a “step five grievance” with the sheriff on November 20, 2020. Dkt. #1-1. However, that grievance was denied by the sheriff on December 8, 2020 on the ground that it was filed outside the time limits set forth in the jail’s grievance procedure. Id. It seems clear that plaintiff cannot exhaust his administrative remedies because the step five grievance is untimely under the jail’s grievance procedure and the sheriff has not made an exception to that rule for plaintiff. However before dismissing the complaint, I will give plaintiff an opportunity to explain why he did not file his step five grievance in a timely manner.

ORDER

IT IS ORDERED that plaintiff Toussaint Minett, Sr. may have until April 29, 2021 to respond to the court’s order as set forth above. If plaintiff does not respond by April 29, 2021, I will dismiss this case for his failure to exhaust his administrative remedies.

Entered this 8th day of April, 2021.

BY THE COURT:

/s/

BARBARA B. CRABB
District Judge